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1 Q Did you all just meet for dinner?

2 A. It was lunch just so that I could -- I

3 think Kurtis wanted to hire him. But before he

4 did it, he wanted me to meet the guy. It was one

5 of those type things.

6 Q Okay And after the lunch, you guys

7 discussed hiring him --

8 A. Right.

9 Q -- you and Kurtis?

10 A. Yes.

11 Q Do you have any responsibility over

12 the sales and marketing department?

13 A. Well, vice president of expansion or

14 sales -- I am currently posted as that. So as

15 executive director, yes, I'm senior to the sales

16 and new customer acquisition.

17 Q Okay. What were your particular

18 responsibilities with respect to sales and

19 marketing?

20 A. Mainly to try to expand our customer

21 base and keep things organized and running

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1 smoothly so that we could test out new products

2 or new ideas, which we do from time to time in

3 trying to keep up with AT&T or whatever. I

4 also --

5 As far as that, I also spend a lot of

6 time on making sure that any rogue sales reps or

7 telemarketers are weeded out.

8 For example, I implemented a system a

9 couple of years ago where we actually -- and

10 they, of course, all know this. But we

11 randomly -- we have somebody full-time who does

12 nothing but listen to tape recordings. And we

13 randomly tape record our sales representatives

14 all day every day throughout the week. And then

15 this person sits there and monitors and then does

16 a check sheet; she completes that. If they are

17 doing really, really well and following the

18 script and making sure customers understand

19 exactly what they are buying, et cetera, then

20 they get a good grade basically. But if they are

21 making personal phone calls or violating any kind

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1 of company policy on misrepresentation, cussing

2 out a customer; you know, you name it; then they

3 get sent over to our inspections area and handled

4 appropriately. So that was probably the smartest

5 thing I've done in the last two years as far as

6 regarding the sales because that has really

7 changed things.

8 Q When did you step into that position?

9 A. As executive director? Or do you mean

10 vice president of sales?

11 Q Well, you said it's one of the

12 smartest things you have done over the last

13 couple of years.

14 A. Oh.

15 Q When did the last couple of years

16 begin?

17 A. Oh, sometime in 2000, I think.

18 Q Okay.

19 A. That system I put in was actually in

20 our division five or quality control, if you

21 will. Anyway, it's a full- time thing. Because

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1 sometimes sales representatives are just trying

2 to get a bonus. And anyway, you have to just

3 stay on top of that.

4 Q Was there -- there was a bonus program

5 in place for the number of new customers they

6 signed on?

7 A. Yeah, we always do sales and marketing

8 games or production bonus type stuff. But by and

9 large, it's pretty good now. I mean, we get the

10 occasional situation where a customer is sold.

11 And then their spouse comes home and sees this

12 new phone company or something like that, and

13 that's a situation. Because they may call in and

14 not know that their spouse ordered it. But by

15 and large, you know, we have -- But then, of

16 course, after all of that monitoring or whatnot,

17 then it goes to the verification company, so I'm

18 pretty pleased with the sales now.

19 Q Were you responsible for writing any

20 telemarketing scripts that your sales people

21 read?

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1 A I've helped on occasion. Kurtis  
2 signed off on basically all the telemarketing  
3 scripts until recently. Actually, the last one  
4 that was modified a couple of months ago, I did.  
5 But basically it's been just a modification of  
6 the basic script that Kurtis wrote, you know,  
7 eight or nine years ago.  
8 Q Okay. Do you work with Kurtis at all  
9 in writing these scripts?  
10 A. Not really. We are pretty independent  
11 brothers and have our own viewpoint on things.  
12 We definitely will coordinate if we have a  
13 difference of opinion on something. But mostly  
14 Kurtis -- I mean, he comes from a sales  
15 background, and so he was -- and had that  
16 experience, where I didn't. So the scripts, he  
17 had the know-how on that, if you will. He just  
18 knew how to do it, so I trusted him. He wrote up  
19 the scripts, and I ran with it, so --  
20 Q Okay. And that's even though you are  
21 technically responsible for the sales and

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1 marketing forces, he handled the script part?  
2 A. Right. I mean, he had been doing it  
3 for so long, yes, he would handle the scripts.  
4 And they were working. So, I mean, why change  
5 something that was working? So my duties were  
6 more of making sure sales representatives showed  
7 up day after day and making sure the managers  
8 over the sales area were keeping them motivated  
9 and happy as possible and that type of stuff.  
10 Q Okay. Did you have any responsibility  
11 for writing the verification scripts?  
12 A. I am hesitating because I just saw my  
13 name on an old verification script from it seems  
14 like years ago. So I know at one point I wrote  
15 or modified one of the scripts. But really, no.  
16 Q Okay.  
17 A. The sales scripts and the verification  
18 scripts all had to get passed by the local  
19 exchange carriers, via our billing agent, USBI.  
20 Which that whole function fell under corporate  
21 affairs, Department 20.

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1 Q Okay.  
2 A. So I would certainly try to give my  
3 input. Like recently we modified the script to  
4 add the intrastate rates, within the state rates,  
5 because we hadn't had that on the scripts. And I  
6 discovered that some of our service challenges or  
7 people canceling were in direct relation to that.  
8 You know, because it's a little bit higher,  
9 basically. We sell it at five cents a minute for  
10 state-to- state, and it's thirteen cents per  
11 minute within the state.  
12 Q Okay.  
13 A. And then when they would get their  
14 bill, they were like, "Hey," and they would  
15 cancel because of the thirteen cents. So now we  
16 put it on the scripts, and we actually sell it  
17 and verify it. But I think that just started  
18 this year.  
19 MR HARKRADER Let's take a  
20 five-minute break.  
21 (A short break was taken.)

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1 BY MR HARKRADER  
2 Q Before we took the break, you were  
3 talking about how scripts now, as of fairly  
4 recently, include a reference to intrastate rates  
5 of thirteen cents per minute. Do you know if  
6 that's the rate across all the states in which  
7 you provide services?  
8 A. I believe it is, other than perhaps  
9 Hawaii and Alaska, which I don't even think we  
10 have any customers there.  
11 Q Do you have different scripts for  
12 those states?  
13 A. No, we have -- the script is actually  
14 blank where it says, "Your state rate is," and  
15 then we have a rate chart that the sales  
16 representatives have nearby that shows each  
17 state. So they would know if the rates are  
18 different in a certain state. Or, also,  
19 sometimes the customer may ask, "What is your  
20 rate to Mexico," and that would have the  
21 international rate also.

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1 Q And you just started putting that in  
2 the scripts this year?

3 A. I believe it was this year. We had  
4 the rates available for any customers who would  
5 ask, but we were marketing to compete with a lot  
6 of -- you know, with AT&T and all these larger  
7 companies' market, which is primarily, "Our  
8 state-to-state rate is 'blah'," so --

9 Q Okay. You mentioned earlier that one  
10 of your responsibilities was doing what you call  
11 weeding out rogue sales reps. Was that something  
12 that happened often in a given week or a given  
13 month?

14 A. No, not really. I think -- You know,  
15 most of the -- I mean, we're bringing in brand  
16 new people all the time. Our generic ad that we  
17 run in the newspapers is, "Eight dollars an hour,  
18 start immediately."

19 Q Okay.

20 A. So we are pulling people in who  
21 previously were maybe working at McDonald's or

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1 whatnot. This is a step up for them, and we are  
2 training them. So we are taking them from ground  
3 zero and trying to find out if they have the  
4 people skills and confront to get on the phone  
5 and deal with hang-ups and whatnot for eight  
6 hours a day. So we are taking them from A to Z  
7 pretty quickly. So most of the corrections occur  
8 because the person is actually learning about the  
9 business and what we are actually selling and  
10 that kind of thing. But every now and then, you  
11 know, you will get somebody who is just  
12 deceitful. And we handle them accordingly.

13 Q For example, how do you handle them?

14 A. Well, if they don't correct after the  
15 first time, then by and large they are  
16 terminated. If we discover that they are  
17 knowingly misrepresenting us to the customer or a  
18 product line to the customer or, you know,  
19 whatever along those lines, we get them out; we  
20 can't have that.

21 Q Can you give me an example of what an

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1 employee would do in those situations?

2 A. Yeah. We have an employee sign when  
3 they first start with us different paperwork.  
4 And one of the documents that we have them sign  
5 is, "I will not misrepresent, and I will not  
6 represent the company as being the local exchange  
7 carrier," et cetera. And then we train them. So  
8 if we get a person that's saying, "Hi, I'm with  
9 Southwestern Bell," you know, we've got a  
10 problem. So that would be a really good example.

11 Q. Did that actually happen -- did  
12 someone use that name?

13 A. By and large what happens -- I don't  
14 know. I haven't heard a tape of that actually  
15 happening. But I've heard that it has happened.  
16 But I think what happens more often than not is  
17 that the customer -- the potential customer will  
18 say, "Are you with Southwestern Bell," or Verizon  
19 or whatever, and a sales rep might ignore that  
20 question completely or verify it, "Oh, yeah, it  
21 will be on your bill." But they leave the

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1 customer thinking that's who we are, something  
2 like that, and that's not okay.

3 Q Do you have any idea how often  
4 something like that happened in 2002?

5 A. No, I wouldn't be able to put a number  
6 on that. I mean, it would happen occasionally, I  
7 suppose. I don't know -- if you have a rogue  
8 representative doing that, and you don't catch  
9 them, then they could be doing it, you know, a  
10 number of times each day.

11 Q Right.

12 A. So I wouldn't know how to pinpoint a  
13 figure for you.

14 Q Yeah, that's fair. Do you keep some  
15 sort of a list of the number of employees that  
16 you do catch misrepresenting the company?

17 A. We have -- We just implemented, and I  
18 don't know how far back it goes -- it may go back  
19 all of 2002 or it may even go further because I  
20 told the people doing this project to do some  
21 clean-up with it. But when people are routed

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1 out; in particular, sales representatives; we  
2 want to determine why. Were they not happy with  
3 us; was it something in the training that went  
4 wrong; were they routed out for insubordination,  
5 misrepresentation, et cetera. So we had a list  
6 of I think it was eight or nine reasons people  
7 left the company. And when they leave, we enter  
8 that code into the computer. So as far as any  
9 lists, that would be the only list that I could  
10 come up with that would show you the numbers of  
11 people routed out for whatever reason. And then  
12 statistically, I suppose, we could determine how  
13 many were routed out for misrepresentation.  
14 Q Does route out mean leave the company?  
15 A. Yeah, leave the company.  
16 Q Have you seen that number decrease  
17 through the last 18 months?  
18 A. Yes, actually. I think we are doing a  
19 heck of a better job on our hiring -- who we  
20 hire. And then in the area where we now really  
21 have that whole system of audio tape recording --

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1 audio monitoring is what we call it, where we  
2 tape record sales representatives all week long,  
3 and we correct them like crazy. So we find it  
4 ourselves now versus the state complaints.  
5 Q Where are your telemarketing located?  
6 I mean, where do they actually report to work?  
7 A. 8380 Louisiana.  
8 Q Is that where you go in for work when  
9 you do go in?  
10 A. Yes. My office, on purpose, has  
11 windows and blinds and whatnot and is right near  
12 the sales floor. So I have to walk in -- They  
13 know I'm there, you know.  
14 Q Did there come a time when you  
15 understood that the FCC was looking into Business  
16 Options for allegations that Business Options  
17 slammed certain customers?  
18 A. Yes. Basically the day I received the  
19 show of cause notice.  
20 Q Okay. Were you aware that the FCC  
21 sent a letter in the very beginning part of

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1 November of 2002 asking for responses from the  
2 company?  
3 A. I may have been dispatched by somebody  
4 on that. But, no. As far as my awareness, it  
5 was like, "Holy Cow." We got this show of cause  
6 thing, and that was the day the FCC was  
7 interested in us. Bill and Shannon and that  
8 whole department kind of sits alone and does its  
9 thing. And every so often I might get an update,  
10 if you will. So no, I really had no idea that  
11 the FCC was looking into us for that.  
12 Q Before you -- Well, when did you see  
13 the Show of Cause Order?  
14 A. Maybe three months ago. I got a copy  
15 as soon as it was sent to us.  
16 Q Is this the document --  
17 A. Yes.  
18 Q -- the Show of Cause Order?  
19 A. Yes, that's the document. And I  
20 didn't even read the whole thing at first because  
21 I was not happy. It took about a month or so

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1 before I actually sat down and read it.  
2 Q But the first time you saw that was  
3 three months ago?  
4 A. It looks like it was released on April  
5 7. So yeah, about then. Probably right around  
6 April 10 or whatever.  
7 Q So it's fair to say as soon as you  
8 received it?  
9 A. Yes.  
10 Q Okay. But you have no recollection of  
11 seeing the inquiry letter that the commission  
12 sent the first week of November, 2002?  
13 A. That's correct. In fact, I don't know  
14 that I have seen it to this day.  
15 Q Did you have any discussions with  
16 anybody at Business Options about this November  
17 inquiry letter?  
18 A. Not until this whole thing came up.  
19 Q Let me show you a copy of it, and  
20 maybe that will refresh your recollection as to  
21 whether you saw that before.

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1 A. No, I have never seen this. If you  
2 want me to read it, I will read it. But I have  
3 never -- Well, let me just make sure. I do  
4 remember people asking questions about the Maine  
5 customers.  
6 Q And that is contained in Attachment A  
7 to the letter?  
8 A. Yeah. But I don't even think I saw  
9 this list of names. I think I was giving  
10 people -- I think it was Shannon or Bill or  
11 whoever it was -- access to anything they needed.  
12 So they were just doing their thing, I am sure.  
13 More than likely -- This is November -- I don't  
14 remember, but more than likely, whoever got this  
15 would have said something to me.  
16 Q But you have no memory of that  
17 happening?  
18 A. Correct.  
19 Q But you do remember that Miss Dennie  
20 or Mr Brzycki came to you to ask about the  
21 names that are listed in Attachment A to that

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1 letter?  
2 A. This is November 1, so Bill would have  
3 been gone. When did I -- It actually seems more  
4 recent, maybe in the subsequent -- I think they  
5 are called interrogatories, you guys needed some  
6 data about the customers -- eight customers.  
7 That's more fresh in my mind than this, and I  
8 think that was just to find out -- I know Kurtis  
9 sent something to get information on eight  
10 customers, and I just sent it right on to  
11 Elizabeth. And she and Shalanda got all the  
12 information for whatever Kurtis needed.  
13 Q When you first looked at that  
14 Attachment A, it seemed to ring a bell. I was  
15 wondering why that was.  
16 A. Well, the second name, Paul Bracket --  
17 he is on the other list, I think. Or Crowley,  
18 that name is familiar. This seems to be a  
19 different list than the one I saw because this is  
20 two pages. And the one I saw, I think it came  
21 with an order. Basically it said, "We need

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1 information on these eight people," and it might  
2 have even been a list that Kurtis typed up.  
3 Q Would you look at -- there's a list in  
4 the back of the Show of Cause Order.  
5 A. Okay.  
6 Q See if that one refreshes your memory.  
7 A. Okay.  
8 Q At least I hope there is a list.  
9 A. All right.  
10 Q And I know that handwriting you  
11 probably didn't see.  
12 A. Yeah, there was no writing. Yeah,  
13 there's Crowley and Bracket. That looks  
14 familiar. Maybe that's what Kurtis sent through,  
15 just a copy of that with his order to get all the  
16 information on it.  
17 Q Okay. So between the beginning of  
18 November and when you first saw the Show of Cause  
19 Order, you had no understanding that the FCC was  
20 looking into the allegations of slamming?  
21 A. Correct.

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1 Q You have no memory of any  
2 conversations during that time period; that is,  
3 November through April; of any conversations you  
4 had with anybody at BOI about the FCC  
5 investigation?  
6 A. No. My attention seemed to be on --  
7 it seemed like Shannon may have sent me some type  
8 of an update, but I would have to look through  
9 files or something because I don't know for sure.  
10 But it seems like they were sending us updates on  
11 all the states, the progress of Buzz becoming  
12 licensed in all the states. Because our plan is  
13 to eventually operate just as Buzz Telecom in all  
14 the states, and that's where my attention was.  
15 So every now and then I would get updates. So,  
16 anyway, there may have been something -- I just  
17 don't recall right now.  
18 Q Who brought the Show of Cause Order to  
19 your attention?  
20 A. I think it was Shannon. I think  
21 Shannon received it and brought it over to me.

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1 Q Do you remember what she said to you?  
2 A. I don't remember the exact words, but  
3 I remember she called me. She was matter of  
4 fact, and it seemed like she said something like,  
5 you know, "I need to bring something over to you  
6 that seems important." But it was -- It didn't  
7 seem out of the ordinary to me. And then when I  
8 got it, I remember going, "Wow, what is this?  
9 Does Kurtis have it?" or whatever.  
10 Q Did she answer that question?  
11 A. I don't think he was there that day,  
12 or he came in later that day. And she said that  
13 he was getting a copy of it.  
14 Q Did you give Miss Dennie any tasks  
15 with respect to responding to this Show of Cause  
16 Order?  
17 A. No. I remember sitting there. I was  
18 in the middle of something, and I told her thank  
19 you. After looking at the seriousness of it, I  
20 put it in my "in" basket so that I could read it,  
21 you know, when I had a minute. It was too

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1 overwhelming, I guess. I'm not used to getting  
2 this type of stuff.  
3 Q When did you eventually read it?  
4 A. I think I read the -- That day I read  
5 like the first page and got the seriousness of  
6 it. And then it seems like it was a month later,  
7 maybe even six weeks later, that I sat down with  
8 a dictionary and, you know, read it and looked up  
9 some of the words that I didn't know what they  
10 meant.  
11 Q Did you have any understanding in that  
12 month period that somebody at the company was  
13 doing something with respect to this Show of  
14 Cause Order?  
15 A. Yeah, I had the understanding that  
16 Kurtis and Shannon were on it.  
17 Q Did they talk to you about what they  
18 were doing?  
19 A. No.  
20 Q How did you have the understanding  
21 that they were on it?

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1 A. Well, because she had brought it to  
2 me. And then I had verified that she got a copy  
3 to Kurtis. And then I talked to Kurtis, "Did you  
4 get this document?" And he said, "Yeah, I'm  
5 going to take care of it." It was part of his  
6 hat or his area. So it obviously seemed to me to  
7 be something pretty big and significant. So if  
8 he was on it, I didn't need to be.  
9 Q Even though it involved allegations of  
10 slamming?  
11 A. Yes.  
12 Q Would it be fair to say that a slam,  
13 you know, if it were to happen, hypothetically,  
14 would be under your supervision or under your  
15 watch as head of sales and marketing?  
16 A. Yeah, I guess it would be fair to say  
17 that currently. I think that -- I am thinking of  
18 provisioning also. Because if somebody data  
19 enters somebody incorrectly, you know, that's  
20 more of a concern of mine, too. I am over that  
21 area, too. So, yes, it would be fair to say

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1 that.  
2 Q Because what I am trying to piece  
3 together here is -- You have done a pretty good  
4 job of telling me what your responsibilities were  
5 within the company --  
6 A. Okay.  
7 Q -- currently and within the last  
8 couple of years. But it seems to me that if the  
9 FCC sends a Letter of Inquiry in November that  
10 involved allegations of slamming, it would be  
11 natural that somebody at the company would come  
12 to you to help respond to that letter. And I  
13 want to know -- I am trying to get an idea of why  
14 that didn't happen, if you know.  
15 MR HAWA Trent, if I could, you have  
16 asked a variety of questions on the same point  
17 here. I think what he is saying is the Order  
18 itself is a legal matter, and it went to the  
19 legal department under Kurtis to be handled.  
20 That doesn't mean that the issues raised in the  
21 legal complaint wouldn't involve Keanan at some

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1 point or any number of 30 or 40 other people for  
2 information to answer the questions  
3 MR HARKRADER I am asking about the  
4 inquiry letter right now Because the inquiry  
5 letter shows up, and --  
6 MR HAWA Oh, the inquiry letter; not  
7 the Show of Cause Order.  
8 MR HARKRADER Correct. Because the  
9 inquiry letter shows up, and it's got, you know,  
10 significantly more than eight names on it. And  
11 these are all allegations that the company may or  
12 may not have slammed these people.  
13 MR HAWA You confused me there. I  
14 thought you were still talking about the Show of  
15 Cause Order being handled by Kurtis. Now you are  
16 going back.  
17 WITNESS I misunderstood you, too.  
18 MR HAWA It's the Letter of Inquiry.  
19 WITNESS Yeah, the Letter of Inquiry,  
20 until today, I hadn't seen.  
21 BY MR HARKRADER

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1 Q But you have no explanation as to why  
2 no one in the company came to you when the  
3 company received the inquiry letter to get your  
4 assistance at the very least in responding to it?  
5 A. **No, I don't have a good explanation**  
6 **for that.**  
7 Q Okay. In 2002, were you familiar with  
8 the FCC rules concerning carrier exchanges?  
9 A. **I am not sure.**  
10 Q When a carrier -- When a user or  
11 customer wants to switch long-distance carriers,  
12 there are certain FCC rules that apply to that  
13 situation Were you familiar with those rules in  
14 2002?  
15 MR HAWA Objection. Are you asking  
16 "familiar," or if he knows the rules?  
17 Q Were you familiar with them?  
18 A. **I know that there are rules. I don't**  
19 **know the rules very well. I don't think I even**  
20 **studied or read them. I know you have to, you**  
21 **know, have a letter of agency written**

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1 **authorization or some type of electronic**  
2 **verification or a third-party verification. I**  
3 **kind of know that.**  
4 Q Did you know that in 2002?  
5 A. **Yes.**  
6 Q I will ask the same question with  
7 respect to the "Pick Freeze" rules. Were you  
8 familiar with those rules in 2002?  
9 A. **The "pick freeze" rules. I don't**  
10 **think I am familiar with them even today,**  
11 **actually, so --**  
12 Q Yesterday, when we were speaking with  
13 your brother, he told us about "pick freezes."  
14 And he said at one point Business Options, when  
15 they signed up a new customer, would then get on  
16 the line with the LEC, whether it was Ameritech  
17 or somebody else, and assign a "pick freeze" to  
18 that customer's account. Are you familiar with  
19 that policy?  
20 A. **That, yes.**  
21 Q Are you familiar with the fact that

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1 policy was in effect?  
2 A. **Yes.**  
3 Q Did you know in 2002 that there were  
4 commission rules regarding those "pick freezes?"  
5 A. **No.**  
6 Q Okay. Getting back to that -- to the  
7 practice of having the customers set up a "pick  
8 freeze" with the local exchange carrier once you  
9 signed them up for Business Options service, did  
10 you have any input into making that a policy of  
11 the company?  
12 A. **I am sorry, I didn't really follow the**  
13 **question.**  
14 Q. Okay. You are familiar with Business  
15 Options' policy -- Well, at one point it was  
16 Business Options' policy --  
17 A. **Uh-huh.**  
18 Q -- to have a "pick freeze" -- or have  
19 the customer put on a "pick freeze" onto their  
20 phone or onto their line at the time that  
21 Business Options signs them up.

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1 A. Okay. I see where you are going.  
2 Q You are familiar with that policy?  
3 A. Yeah.  
4 Q When was that policy in effect?  
5 A. Well, up until recently, when we found  
6 out it was wrong, and we changed it. So for a  
7 couple of years, at least. I do remember when we  
8 had a lot of challenges. It wasn't really over  
9 that, though. It seems like -- it wasn't over  
10 sales for sure then. But I know what you are  
11 talking about. We used to have the sales  
12 representatives three-way into the local exchange  
13 with the customer because a lot of customers  
14 wanted -- they wanted to stick to the service and  
15 not get it changed back. And they would do the  
16 "pick freeze" right there on the three-way with  
17 the local exchange carrier. But what was  
18 happening is they would get through to Ameritech  
19 or whoever, Verizon, and there were really long  
20 lengths of time, like 30 minutes or more, before  
21 they could -- you know, there was some type of

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1 rotation with the LEC, and it just slowed the  
2 process. The customers didn't want to wait on  
3 the phone that long to do the "pick freeze" is  
4 what was happening. So we put in our own "pick  
5 freeze" process until they canceled with us  
6 directly. Anybody that dropped off was put back  
7 on the service.  
8 Q Okay. When did -- If you can recall,  
9 when did Business Options begin the process of  
10 three-way with the LEC in order to assign "pick  
11 freeze" to the customer's line?  
12 A. It seems like maybe '99.  
13 Q Okay And then for how long was that  
14 policy in place?  
15 A. Until a month or two ago.  
16 MR HAWA You might want to re-ask  
17 that.  
18 MR HARKRADER Yeah.  
19 BY MR HARKRADER  
20 Q Along the way, you changed it rather  
21 than the three-way to the LEC --

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1 A. Oh, I'm sorry.  
2 Q When did you start three-way to the  
3 LEC?  
4 A. That, I don't know for sure.  
5 Q Do you have an approximate date or  
6 approximate month?  
7 A. If I was going to guess, 2000,  
8 somewhere in there.  
9 Q And at that time, you put a new policy  
10 in place with respect to these "pick freezes?"  
11 A. Yes.  
12 Q And that policy was that you  
13 wouldn't -- that Business Options would not  
14 change the customer to another long-distance  
15 carrier unless the customer called Business  
16 Options and told them that they wanted to change?  
17 A. Well, we can't actually change them to  
18 another carrier. That's all done at the LEC or  
19 the carrier level. But, yes, to answer your  
20 question. In theory, unless they called and  
21 canceled us, we assumed they wanted our service

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1 still after ordering it. So if they were dropped  
2 off, they were put back on our service.  
3 Q And that policy was in place until a  
4 couple of months ago?  
5 A. Correct.  
6 Q Okay. Did you have any input, or did  
7 you help make the decision to put the three-way  
8 calling policy into effect in '99?  
9 A. No.  
10 Q Who made that?  
11 A. Kurtis.  
12 Q Did he talk to you about that?  
13 A. No. At that time, I had very little  
14 to do with sales and marketing.  
15 Q Okay. When you first -- When you  
16 stepped into the sales and marketing division,  
17 did you know about that policy?  
18 A. When I stepped into where I was  
19 overseeing the expansion; division six, we call  
20 it; we were not three-way calling. So at that  
21 point, we had the other process.



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1 Q Okay. So I also -- I assume it's fair  
2 to say that when you had the second part of the  
3 process, where you didn't three-way call, you had  
4 no input into that policy change or that process  
5 change?

6 A. Correct. That was already in  
7 existence.

8 Q Okay. Thank you for understanding  
9 that question.

10 A. Okay. No, that's okay.

11 Q I want to take you back to just the  
12 last couple of months. You mentioned earlier  
13 that someone came to you with a request to  
14 respond to some sort of information that was  
15 responsive to the Show of Cause Order. Is that  
16 what you said?

17 A. It seems like we had to gather some  
18 information on the eight people.

19 Q All right.

20 A. And I think it was Maine customers, I  
21 don't know. It may have been Vermont. Anyway,

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1 it was a memo basically or a dispatch from Kurtis  
2 through me to Elizabeth's area. And then  
3 Elizabeth and Shalanda gathered the information  
4 on who sold the customer, who verified the  
5 customer, the names of the entities, stuff like  
6 that. That's what I recall.

7 Q Did you have any role in that, other  
8 than putting the dispatch through?

9 A. No. I like computers, but that's one  
10 area where it definitely was in Shalanda's area,  
11 the control of the customer base on the computers  
12 and whatnot.

13 Q What do you mean by the control of the  
14 customer base?

15 A. Well, that's their area. So all the  
16 databases, any information, the software that we  
17 lease to, you know, bill and data-enter customers  
18 and all that -- that's Shalanda and Elizabeth.  
19 So any information we need from that -- I don't  
20 even know how to use our software system, I guess  
21 is what I am trying to explain.

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1 Q But that's the natural place to go  
2 within the company?

3 A. Yeah. If I need something, I go to  
4 them. And there are enough people there who can  
5 help me, so --

6 Q Okay. Did you have any discussions  
7 with Kurtis about that dispatch when it went  
8 through?

9 A. I don't think so. I mean, he may have  
10 made a phone call to say, "I need this now," you  
11 know right away and made it a rush, something  
12 like that. But did I know it was related to  
13 this? It seems like -- I just don't remember any  
14 discussions, but it may have been on the dispatch  
15 itself. But I knew they needed the information  
16 for the FCC situation they were working on; that  
17 it was important.

18 Q Did there come a time in the second  
19 half of 2002 when you became aware that the state  
20 of Vermont was doing an investigation into  
21 Business Options practices?

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1 A. Yes. I was given some type of update  
2 by Bill, but I remember -- what I knew about it  
3 was that the billing company, I believe, stopped  
4 accepting billing -- service fees and whatnot for  
5 Vermont. And I am not sure if we even billed  
6 their usage at that point. I was more aware of  
7 the fact that we couldn't bill there anymore or  
8 something. But as far as the details of why or  
9 what the situation was, I never really knew. I  
10 mean, I think I got an update from Bill, "We have  
11 a situation in Vermont," you know, maybe a  
12 paragraph long or something.

13 Q When was this? When did you become  
14 aware that you were no longer billing in Vermont?

15 A. I don't really remember for sure, but  
16 it was last year. Yeah, last year.

17 Q Do you remember how the Vermont  
18 investigation resolved itself?

19 A. I get confused between Vermont and  
20 Maine. I'm not sure -- I know one of the states  
21 we ended up having to disconnect the customers

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1 and basically move out of the state and not  
2 operate there.  
3 Q But sitting here today, you don't know  
4 whether that was Vermont or Maine?  
5 A. No. But I am sure, you know, I've  
6 seen a note on which it was. It seems like it  
7 was Vermont.  
8 Q Do you have any memory, sitting here  
9 today, that Business Options filed an application  
10 to discontinue service in Vermont -- filed that  
11 application with the FCC?  
12 A. Is that a letter of discontinuance?  
13 Is that what that's called?  
14 Q It's actually an application. It's  
15 called a 63.71 application. I can show you a  
16 copy of it.  
17 A. Okay. No, that's --  
18 Q I am showing you a copy of a pleading  
19 called Section 63.71 application filed by  
20 Business Options with the FCC?  
21 A. And this is basically a request that

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1 we remove ourselves from --  
2 Q Yes.  
3 A. Okay.  
4 Q Have you seen that before today?  
5 A. No.  
6 Q Do you have any memory of that being  
7 filed with the FCC in December of 2002?  
8 A. No, definitely not.  
9 Q Did you have any discussions with your  
10 brother about this?  
11 A. No.  
12 Q Did you have any discussions with Lisa  
13 Green or Shannon Dennie about the filing of that  
14 application?  
15 A. No. But I am sure that I would have  
16 been told by corporate affairs, either in memo --  
17 probably in memo fashion that we were no longer  
18 able to market in Vermont. And then if we had to  
19 do anything in the delivery area, I'm sure that  
20 would have gone through me also, whether it be  
21 not bill or remove customers from service or

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1 whatever.  
2 Q But you have no memory today of  
3 receiving that memo or dispatch?  
4 A. No.  
5 Q Are you familiar with a company called  
6 Great Lakes Verification?  
7 A. Yes.  
8 Q Did Great Lakes Verification provide  
9 verification for Business Options?  
10 A. Yes.  
11 Q When did that happen?  
12 A. Let's see. That was me, actually. I  
13 actually d/b/a'd myself as Great Lakes  
14 Verification. It was Arethea Gray who was  
15 running the business, and then I took it from her  
16 and tried to make it official. I did it for  
17 about seven months, and that was in '97 into  
18 maybe the first or second month of '98. And then  
19 while I was working on a couple of projects of my  
20 own, I was doing that also. And then I  
21 discontinued that, and I think Kurtis went to

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1 Susan Corder for verifications, and then to A&M  
2 Verifications, and then to F&G Verifications.  
3 Q Okay. Getting back to Great Lakes  
4 Verification -- do you remember in '97 -- You  
5 took over for Miss Gray at Great Lakes?  
6 A. Uh-huh.  
7 Q Why did you take over for her?  
8 A. Good question. I think she was  
9 leaving the company. She had married  
10 Llewellyn -- they had met at the company, and I  
11 think they were leaving, or she was leaving to --  
12 maybe that's when they had their child -- what's  
13 the child's name? Anyway, it might have been for  
14 that.  
15 Q So she married a Business Options or  
16 U.S. Bell employee?  
17 A. Business Options.  
18 Q Can you spell that?  
19 A. I hope so. L-L-E-W-Y-L-A-N is my best  
20 guess. Oshla -- Their baby's name is Oshla.  
21 Q Do you know how to spell that?

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1 A. That's easier -- O-S-H-L-A.  
2 Q Did Miss Gray work at Business Options  
3 or U.S. Bell?  
4 A. She worked at Business Options. I  
5 don't know for how long, but she was working  
6 there when I came back to Indiana in '95.  
7 Q What was her role at Business Options?  
8 A. I believe she worked in administration  
9 for Kurtis, but I'm not really sure.  
10 Q Do you know what her responsibilities  
11 were in '95?  
12 A. No. They were in Lansing, Illinois in  
13 an office. And when I came back in '95, we  
14 started this company, CFO, right here at 8380  
15 Louisiana, and we were totally separate. Kurt  
16 was running that all by himself.  
17 Q And when did Miss Gray start up Great  
18 Lakes Verification?  
19 A. That's a good question. I don't know  
20 exactly. I know that eventually Kurtis closed  
21 down the Lansing office and moved Business

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1 Options to 8380 Louisiana, and then CFO basically  
2 became defunct. So if I had to guess, I would  
3 say in '96 or '97, somewhere in there.  
4 Q Did she continue to work at Business  
5 Options or for U.S. Bell when she was starting up  
6 Great Lakes?  
7 A. No.  
8 Q Do you know if Business Options helped  
9 her start up Great Lakes with equipment or  
10 funding or anything like that?  
11 A. I don't know all the details. Kurtis  
12 set that relationship up. But knowing Arethea  
13 and Llewellyn, I would imagine that whatever the  
14 business relationship was, it was initially  
15 probably capitalized by Business Options.  
16 Q Do you know that for sure?  
17 A. No, I don't know that for sure.  
18 Q Okay. Do you know how many employees  
19 they had in '96-'97?  
20 A. I don't know how many Arethea had.  
21 But when I took over the operation, I think I had

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1 two verifiers and a third was kind of part-time  
2 in case needed.  
3 Q Do you remember when in '97 you took  
4 over -- was it the first half, second half?  
5 A. I ran the verification business for  
6 about seven months. I just recently looked at  
7 some taxes from '96, '97 and '98 just for myself  
8 to remember, and I think February of '98 was the  
9 last payroll that I did. So it was five months  
10 back -- so July or August was when I took it  
11 over.  
12 Q Okay In '96 or '97, did Great Lakes  
13 and Business Options share any employees?  
14 A. I don't know. Not when I was doing  
15 the Great Lakes. I don't know before that.  
16 Q But when you took over Great Lakes,  
17 those verifiers -- those two verifiers and the  
18 one part-time verifier were paid by Great Lakes  
19 Verification?  
20 A. Yes.  
21 Q At that time, were you still 26

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1 percent owner of Business Options or U.S. Bell?  
2 A. No. I think I got my ownership the  
3 following year. I'd have to double-check, but I  
4 think it was '98 or '99. And then I ended up --  
5 I actually got 20 percent, and then I bought Andy  
6 Hastings out. I bought his six percent, so I got  
7 26 percent.  
8 Q But that didn't happen until '98 or  
9 '99?  
10 A. Correct.  
11 Q What was your relationship with  
12 Business Options back in July of '97?  
13 A. Well, I had been a CFO employee, and  
14 then the verification relationship came up. CFO  
15 was not surviving as a company, so I was working  
16 on a couple of other pilot projects. I had a  
17 business guy down in St. Louis who was -- he was  
18 marketing motivational tapes is what he was  
19 doing. And I did the back-end and delivery,  
20 meaning the computers, the shipping and that kind  
21 of stuff. So I was doing that. And then I was

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1 also doing a start-up with a guy named Scott  
2 Majors, who actually played second base for USC  
3 when Mark McGuire was the third basement at that  
4 time period. Scott is a nutritional guru for  
5 lack of a better term. and we put together a  
6 program to direct-sell a nutritional product  
7 called the Z-Power. I was the back-end for that.  
8 So I was doing those three things -- the tape  
9 business; the Z-Power, which we had a few  
10 thousand customers primarily on the west coast  
11 who were all minor league baseball players and  
12 stuff like that. And then I was also doing the  
13 verification company -- I was supervising that.  
14 So if I didn't answer your question, it was after  
15 all of that, eventually 2000 or so is when I  
16 really started getting more involved with  
17 thinking, "Well, Business Options' business could  
18 use me help."

19 Q Yeah. I was under the impression that  
20 you were -- that you had come back from  
21 California in '95, and that was to work with CFO?

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1 A. It was to work with Kurtis to start a  
2 new company, so we started CFO. And then after a  
3 couple of years, that dream was over.

4 (A short break was taken to change  
5 tapes.)

6 Q All right. We were talking you coming  
7 back from California in '95 to work with your  
8 brother Kurtis on CFO

9 A. Uh-huh.

10 Q At that time when you came back, were  
11 you also working with Business Options?

12 A. No.

13 Q So in July of '97, when you took over  
14 for Miss Gray at Great Lakes Verification, you  
15 had no role at Business Options or U.S. Bell; is  
16 that correct?

17 A. I'd have to check all my records, but  
18 I think that is correct. I don't think U.S. Bell  
19 even existed at that point.

20 Q But Business Options did.

21 A. Business Options existed, and I had --

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1 I think the records should show that I received  
2 money from Business Options as a vendor, Great  
3 Lakes Verifications. That what my recollection  
4 is of what it was. And then it was after Z-Power  
5 and a couple of these other ventures that didn't  
6 pan out -- maybe in '99-ish is when I started  
7 helping out with the delivery area, actually, of  
8 Business Options. And I went on payroll at that  
9 point and started working with -- basically, I  
10 was helping in upgrading the computers -- the  
11 automation of Business Options. My interest is  
12 in computers and whatnot, so I was able to help  
13 out and remove -- there was a vendor that Kurtis  
14 had, DCA, that was a nightmare vendor. They did  
15 the billing and rating and whatnot, but they did  
16 it off-sight in Oklahoma, and they were extremely  
17 inconsistent and at least once would create mild  
18 emergencies with the company. So I eventually  
19 got that area reorganized and moved us to our own  
20 software. That's kind of how I came back into  
21 Business Options around that time period and then

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1 started to move my way up to where I ran  
2 treasury, delivery and quality. And then I moved  
3 up to executive director eventually.

4 Q Why did you stop doing the  
5 verifications as Great Lakes for Business  
6 Options?

7 A. That's a good question. I think it  
8 just wasn't really that profitable. And my  
9 interest in Z-Power was expanding -- we had  
10 several thousand distributors and customers, and  
11 I my attention started to be needed more there.

12 Q How did you wind up your relationship  
13 with Business Options as Great Lakes?

14 A. As far as like -- I mean, it just  
15 ended. One day I was doing it, the next day I  
16 was done, paid in full, and I moved on.

17 Q You had discussions with your brother  
18 Kurtis before you did that; right?

19 A. Yeah, of course. I think -- I don't  
20 remember exactly, but I just told him I was ready  
21 to move on, to do something else.

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1 Q And that was in '98?  
2 A. Yeah. It seems like February of '98  
3 was the last payroll I just found.  
4 Q Did you have any involvement in  
5 finding Business Options' next verifier?  
6 A. Susan Corder, yes. She was -- I don't  
7 remember her post, but she replaced me. She had  
8 a location down on Route 30. I remember Kurtis  
9 had the sales representatives at the Valparaiso  
10 office, and they were faxing the orders to Susan  
11 Corder Enterprises. And she had been working at  
12 Business Options prior to starting a verification  
13 business. I don't really know what post she was  
14 on, though. It might have been in customer  
15 service, I think.  
16 Q Can you spell her last name?  
17 A. C-O-R-D-E-R. That was short-lived. I  
18 know it was only two to three months, something  
19 like that. And then she moved to California, and  
20 I'm not sure exactly what occurred. But then  
21 Tony Lowe came on the scene. And he had been --

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1 He is an ex-military guy -- air force, I  
2 believe -- where he trained a lot of people on  
3 how to load planes and whatnot. He seemed like a  
4 pretty decent guy. So he set up A&M  
5 Verifications, which I think ran for a couple of  
6 years.  
7 Q So was Susan Corder's job immediately  
8 before assuming verification responsibilities for  
9 Business Options as a Business Options employee?  
10 A. I believe so.  
11 Q And if she took over for you in  
12 February of '98 and lasted only two to three  
13 months, she faded out in April or May of '98,  
14 roughly?  
15 A. Yeah, it may have been that summer, I  
16 don't know for sure.  
17 Q And then Tony Lowe stepped in?  
18 A. Correct.  
19 Q And he did Business Options'  
20 verifications as A&M Verifications?  
21 A. Yes. He may have a couple of names,

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1 but I know it ended with A&M, which was Anthony,  
2 and then "M" was his wife's name, but I don't  
3 remember what her name was -- A&M Verifications.  
4 Q When Susan Corder was doing it, was  
5 she doing it as Great Lakes Verifications?  
6 A. I don't think so, but she may have  
7 been using Great Lakes Verification scripts.  
8 Q Okay  
9 A. I found -- It wasn't even that long  
10 ago that I found some old Great Lakes  
11 Verifications scripts that F&G was using for a  
12 few months -- I think five months. I just saw a  
13 dispatch that I had written to Bill in 2002 where  
14 I had said, "Please remove that script. The  
15 company doesn't exist anymore."  
16 Q Okay  
17 A. So then I had somebody double-check,  
18 and it looked like for five months in 2002 the  
19 Great Lakes Verifications script was being used  
20 erroneously by F&G employees.  
21 Q. Okay Getting back to Tony Lowe, was

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1 he an employee of Business Options at any time?  
2 A. I think he was initially hired to do  
3 training by Business Options to do some training  
4 at the company because that was his background,  
5 but I don't think he did that very long at all.  
6 All of a sudden he was creating his own business,  
7 A&M Verifications.  
8 Q Okay. So he was doing training --  
9 it's your recollection he was doing training at  
10 Business Options in the beginning part of '98,  
11 immediately before he started as the verifier for  
12 Business Options?  
13 A. I don't know that he was -- Oh, the  
14 verification company?  
15 Q The verification company, yeah.  
16 A. Yeah, he was initially hired, I  
17 believe, to do training. And I don't know who  
18 hired him. I don't know if that was -- I don't  
19 know how long that lasted. And then -- yeah, I  
20 really remember Tony for a couple of years just  
21 running the verifications.

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1 Q Do you remember when he stopped  
2 operating as Business Options' verifier?  
3 A. As the verification company for  
4 Business Options?  
5 Q Yes.  
6 A Okay. I've got you.  
7 Q Thank you.  
8 A. Well, let's see. F&G Verifications  
9 was doing it until recently, and they are almost  
10 going on two years, so 2001, maybe middle of  
11 2001, somewhere in there.  
12 Q And he was operating as A&M  
13 Verifications for most of that time period?  
14 A. Yes.  
15 Q Was Mr Lowe also the individual that  
16 started the 7-Eleven type business?  
17 A. Yes. He -- Yes. He sold -- To  
18 expound on it, he was selling pop and donuts and  
19 candy.  
20 MR HAWA I don't know what pop is.  
21 MR SHOOK Soda. It's the Midwest's

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1 way of saying -- it's generic for soft drinks.  
2 Just as the Midwesterners would say "pop,"  
3 Easterners would use the term, "soda."  
4 WITNESS Yeah, I am going to go have  
5 a pop.  
6 MR HARKRADER I would call it coke.  
7 That's what we grew up with  
8 MR SHOOK And he doesn't mean  
9 cocaine.  
10 MR HARKRADER Yeah, regardless of  
11 whether it was Pepsi or anything else, you would  
12 call it coke.  
13 WITNESS Okay.  
14 BY MR HARKRADER  
15 Q Anyway, back to Mr. Lowe and his  
16 ancillary business. That was something you were  
17 not please with?  
18 A. I was not pleased at all. Because  
19 what happened is he expanded his lease and took  
20 over a small office adjoining his verification  
21 company. So then he had his own headquarters, if

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1 you will, for him being the CEO of A&M  
2 Verifications, and the verifiers were in his main  
3 facility there, which is in our building. But it  
4 is a separate location. And then he had an  
5 adjacent office that he acquired. Anyway, he  
6 also had a little TV in there, and he had his  
7 Internet connection, and he had a radio, and it  
8 was quite something to walk by and see him  
9 marketing his coke products and whatever else to  
10 our staff while he is watching TV. So it was  
11 driving me nuts. In fact, the verifications was  
12 running smoothly, but I just didn't like the fact  
13 that he had his attention on making extra money  
14 off of our staff. I wrote some reports on it,  
15 and I was constantly on Bill's behind to get that  
16 handled. And then finally, I just had it because  
17 Tony was becoming unwilling to change.  
18 Q Was he located in the Business Options  
19 offices when he was doing the A&M Verifications?  
20 A. The A&M Verifications office has it's  
21 own office and space, but it's in the same

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1 building as Business Options.  
2 Q Okay. And I think you told me this  
3 already, but when Miss Corder was doing Business  
4 Options' verifications, she was in a separate  
5 location?  
6 A. Correct.  
7 Q When you were doing -- When you and  
8 Miss Gray did Great Lakes in that '97-'98 time  
9 period, where were your offices located?  
10 A. I think I had the office that Tony  
11 Lowe or A&M Verifications eventually took over.  
12 That's where my staff was working -- right there  
13 in that location.  
14 Q So in 2001, is that when F&G  
15 Verifications took over --  
16 A. Yes.  
17 Q -- for Tony Lowe's entity?  
18 A. Yes. F&G had another name. It's F&G  
19 Verifications, but they also go by -- I don't  
20 know exactly why, but TAASHKO, T-A-A-S-H-K-O.  
21 Q Okay. Do you know what the "F" and

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1 the "G" stand for?  
2 A. Furmankiewicz and Golceri. And I do  
3 not know how to spell it.  
4 Q I got Furmankiewicz yesterday. I  
5 wondered if maybe your counsel had that second  
6 name.  
7 A. Actually, I do know how to spell that  
8 one.  
9 Q Oh, you've got that one?  
10 A. G-O-L-C-E-R-I, I believe. It's  
11 Italian. Golceri is how they pronounce it.  
12 Q Is that another individual?  
13 A. Alan Furmankiewicz was our CPA, and he  
14 worked at the Internal Revenue for 15 years and  
15 then retired from there and went into independent  
16 practice. And then Bob Golceri or Golceri,  
17 however you pronounce it -- they are from the  
18 same church, and Bob worked for 20 years for a  
19 real big -- I think a "Big Eight" firm as a  
20 CPA -- a four billion company, I'm not sure of  
21 the name. And then he left that company and went

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1 into business with Alan. So they are two CPA's  
2 running a CPA business and other ventures.  
3 Q And their CPA business is  
4 Furmankiewicz and Associates?  
5 A. Yes.  
6 Q And how long have they been doing the  
7 accounting work for Business Options?  
8 A. I think we started using Alan around  
9 '99, something like that. I would have to look  
10 at the tax returns --  
11 Q Right. How did they get involved in  
12 doing the verifications for Business Options?  
13 A. Alan knew that I was not happy with  
14 Tony, and Alan is pretty entrepreneurial himself,  
15 so he liked the idea of taking over that  
16 business. He was also Tony's CPA or A&M's CPA.  
17 So he struck up negotiations. And I don't know  
18 if he bought out -- it seems like he bought Tony  
19 out. I don't know for sure, though, or how many  
20 assets that was. But he basically dealt with --  
21 he knew that we needed somebody new, so he took

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1 over for Tony and created a company. And his  
2 plan was -- and still is, actually -- he wants to  
3 get other customers. You know, he likes that  
4 business. It's just he has been busy with his  
5 CPA business, and he hasn't gone out and gotten  
6 other customers and expanded it. The original  
7 plan was he was going to move his location to his  
8 offices in Chesterton, which has never happened.  
9 So we started -- or I started this year using  
10 this company out of Florida -- a verification  
11 company -- on a pilot project, and then they  
12 ended up doing almost half of our verifications  
13 at one point. And then just recently we moved  
14 them to where they do almost everything now. We  
15 kind of tested all the electronic -- you know,  
16 they are in Florida, so we have to deal with  
17 three-way calling into them and all that kind of  
18 stuff off of our T-1 phone lines. Anyhow, that's  
19 now fully operational and de-bugged, and they do  
20 all of our verifications. I think they started  
21 about a month ago, in that area.

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1 Q So F&G was doing the verifications up  
2 until very recently, until a couple of months  
3 ago?  
4 A. They were doing most of the  
5 verifications. And then for 2003, they were  
6 doing at least half, if not a little bit more.  
7 But this other company, The Verification Company,  
8 was doing a pretty good number of our verified  
9 orders.  
10 Q Did F&G move into the office space  
11 formerly occupied by A&M Verifications?  
12 A. Yes.  
13 Q And how many employees do they have?  
14 A. Well, that's the funny part. They  
15 never ended up doing a payroll. Tony Lowe was  
16 totally separated, independent and did all of his  
17 own payroll and whatnot. So we basically did  
18 like an employee lease-back, where he had two  
19 employees basically that were paid by U.S. Bell  
20 and Buzz.  
21 Q All right.

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1 A. The plan was -- I mean, he did  
2 eventually establish bank accounts, and that was  
3 his plan -- to do the whole deal, but it never  
4 happened.  
5 Q Now, how did that relationship come  
6 about -- was it initiated by Mr. Furmankiewicz,  
7 or was it initiated by you and Kurtis?  
8 A. The relationship of him being our CPA,  
9 or what?  
10 Q No, that is a good clarification The  
11 relationship of the sharing of the employees from  
12 Business Options or Buzz to F&G  
13 A. Well, that would have been me. I  
14 mean, basically Alan and I -- you know, the whole  
15 idea was that he would do his own payroll. And  
16 in the agreement, he would basically -- we would  
17 pay, and he would run the company and do all the  
18 payroll taxes and the payroll and all of that,  
19 and that maybe he would like employee-lease like  
20 one of our people in treasury to do some of the  
21 paperwork. But it would basically be all in

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1 F&G's books and banks and all that stuff. And  
2 then he would just kind of run the phone, the  
3 person in charge.  
4 Q All right.  
5 A. That was the basic plan. And then, of  
6 course, they were going to move, too, but that  
7 just never happened, so --  
8 Q But this was a way that Business  
9 Options and/or U.S. Bell or Buzz could help F&G  
10 get up on their feet and on their own?  
11 A. Yes.  
12 Q Okay. Did F&G Verifications do all of  
13 the verification work for BOI and Buzz and U.S.  
14 Bell in 2002?  
15 A. I believe so, yes.  
16 Q I want to show you a copy of a  
17 transcript for the verification of Mr. Bracket.  
18 Have you seen that document before?  
19 A. No.  
20 Q Okay. Would you mind just reading it  
21 to just get a feel for it?

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1 A. Out loud, or --  
2 Q No, just to yourself.  
3 A. Oh, okay. I can see the first  
4 sentence is not good.  
5 (Witness read document.)  
6 A. Okay.  
7 Q What about the first sentence is not  
8 good?  
9 A. Well, it's got Great Lakes  
10 Verification Company, so they were using a script  
11 that they shouldn't have been using. And as I  
12 said earlier, there was about five months, is  
13 what I found recently, where the Great Lakes  
14 Verification Company's script was being used when  
15 it should have been the F&G Verification script.  
16 So that's really the only error I see, is that  
17 they used the wrong name.  
18 Q So the verification at this time -- at  
19 least with respect to this particular consumer,  
20 the actual verification company was F&G  
21 Verification?

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1 A. Correct.  
2 Q It was not Great Lakes Verification?  
3 A. Correct.  
4 Q What was the five-month period of time  
5 in which the verifiers were using the Great Lakes  
6 script?  
7 A. I don't know exactly, but I could get  
8 you that information, because I do have it  
9 written down somewhere.  
10 Q And this verification took place  
11 within that five- month period of time?  
12 A. Yes. That's why we double-checked off  
13 of this date, and then we expanded -- we had  
14 somebody who went -- all of the verification  
15 tapes are organized for two years with dates, so  
16 we had somebody just spot-check out until they  
17 started finding F&G Verifications, and that's how  
18 we determined it was five months. But, yes, this  
19 was during that period.  
20 Q Before that five-month period, do you  
21 know if the companies that were doing Business



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1 Options' verifications were actually using their  
2 own names, or were they using the names of Great  
3 Lakes?  
4 A. I think it was F&G -- well, it was A&M  
5 Verification, then F&G Verifications, then all of  
6 a sudden for five months somebody got a hold of a  
7 script and just put it in there, and it was Great  
8 Lakes Verifications. And then it was switched  
9 back after I sent a note to Bill when I  
10 discovered back in 2002 saying, "What the heck is  
11 this?"  
12 Q Do you remember when you discovered  
13 it?  
14 A. It seems like toward the end of 2002.  
15 There is a note somewhere that I sent to Bill  
16 that is dated. And it says, "Hey, fix this  
17 problem."  
18 Q How did you discover that? How did  
19 you discover that in fact F&G Verifications was  
20 using the Great Lakes Verifications script?  
21 A. That's a good question. I don't know

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1 for sure. Somebody might have brought it to my  
2 attention, or I might have seen the script. I do  
3 not think it was from hearing anything like this,  
4 so I am not really sure.  
5 Q Was it part of your responsibilities  
6 to listen to the verification tapes as well as  
7 the telemarketing tapes?  
8 A. No.  
9 Q Do you know if --  
10 A. It may have come from the corporate  
11 affairs department, because they listen to the  
12 tapes every time there is a complaint or whatnot,  
13 you know. So somebody brought it to my  
14 attention. And once I knew, then I put in an  
15 order to Bill to change it.  
16 Q And this was late in 2002?  
17 A. It seems like it was. I'd have to  
18 double-check on that.  
19 MR HARKRADER Let's take a five  
20 minute break.  
21 (A short break was taken.)

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1 Q Okay. Did you supervise Elizabeth  
2 Rosas?  
3 A. Yes, Elizabeth Ontiveros Rosas.  
4 Q How long have you been her supervisor?  
5 A. Since she started, which is coming up  
6 on three years now.  
7 Q And what does she do for you?  
8 A. Computers. If I had to sum it up,  
9 computer software. She is a software engineer;  
10 she's a programmer. Her degree was in  
11 programming at IU, and also she has a minor in  
12 Spanish.  
13 She worked at a pretty big firm -- I  
14 think a "Big Eight" firm, where they went out,  
15 and she flew all around and did programming  
16 de-bugs for I think most of the governmental  
17 contracts. She got tired of traveling around, so  
18 she found us. She wanted to have kids and all  
19 that, you know.  
20 Anyway, we had some computer things  
21 that were way beyond my grasp, software-wise, so

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1 we hired her to come in and take us to a new  
2 level as far as that. And she interfaces with  
3 all of the -- any of our vendors. She helped  
4 implement our new software, so she interfaces  
5 with their engineers and whatnot whenever there  
6 are any bugs or problems.  
7 To sum it up all nicely, I would say  
8 she is in charge of maintaining the maintenance  
9 of our entire database of customers and keeping  
10 it as organized and efficient and working as  
11 possible.  
12 Q And that's what she has been doing for  
13 the last three years since she started with you  
14 all?  
15 A. Uh-huh. Well, she does -- that's part  
16 of her job. She is also -- she has moved up,  
17 actually. Now she is senior to the treasury  
18 area, the delivery area, and then the quality  
19 control area -- those three divisions -- three,  
20 four and five. So she monitors and works and  
21 tells the treasury manager what to do. So if

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1 there is any payroll hiccups or whatever, she can  
2 go in and help fix that.  
3 She is also Shalanda's boss, which is  
4 where all of the provisioning of customers occur.  
5 And that's also the win-back department, where  
6 people who have canceled -- Well, now, as part of  
7 our process, we move the drops -- instead of  
8 provisioning them ourselves, we route them over.  
9 And Liz helps Shalanda, and they create lists of  
10 anybody who has dropped our service or canceled.  
11 And then we have a department where they call  
12 those people back and try to win them back to our  
13 service.  
14 I think we are running around 10 to 20  
15 percent success rate right now in that. So,  
16 obviously, we are hoping to expand on that.  
17 Q Did you hire her?  
18 A. Yes. She replaced George Vasquez, who  
19 I had worked with for a year or so. Well, that's  
20 not really true. She was hired to help George  
21 and I with some of the functions, and then she

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1 ended up taking his job as vice president of  
2 operations because we had some type of down-  
3 sizing where Kurtis and I couldn't afford both of  
4 them, bottom line. So George went and worked  
5 with Kurtis on a new project. George actually  
6 went and helped Kurtis create Total Bus.-247.  
7 Q Were you the one that reviewed her  
8 resume' and interviewed her?  
9 A. Uh-huh.  
10 Q I wonder if we can take, hopefully not  
11 too long, and go through the divisions of the  
12 company  
13 A. Okay.  
14 Q At least, you know, let's just limit  
15 it to 2000 to the present.  
16 A. Okay.  
17 Q I'm sorry -- the beginning of 2002 to  
18 the present.  
19 A. Okay.  
20 Q Divisions one and two, over which you  
21 supervise; correct?

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1 A. Well, there is the vice president of  
2 administration --  
3 Q Okay.  
4 A. -- and then I would be that person's  
5 boss.  
6 Q And what do -- I know you said this  
7 before, but what are division one and two?  
8 A. Division one is basically personnel.  
9 Division two is marketing, meaning like  
10 publications, you know, newsletters, anything in  
11 print or new products to the existing customer  
12 base.  
13 Q Okay.  
14 A. Although it doesn't really do  
15 anything.  
16 Q Right.  
17 A. But that's the theory of it.  
18 Q And that's marketing that is distinct  
19 from what they would do in other divisions in  
20 terms of telemarketing?  
21 A. Yes. Let me describe it this way: It

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1 would be marketing additional products to current  
2 customers. Division six would be acquiring new  
3 customers.  
4 Q Okay. Do you also oversee division  
5 six?  
6 A. Well, the vice president of sales.  
7 And then I would oversee that person, which  
8 currently that's me. But for most of the year,  
9 it was Mike Norville.  
10 Q Is that the same thing as vice  
11 president of expansion?  
12 A. Yes.  
13 Q And the third vice president is vice  
14 president of operations?  
15 A. Correct.  
16 Q See, I do listen.  
17 A. That's good.  
18 MR HAWA I don't. What were they  
19 again?  
20 WITNESS I should have brought a  
21 chart.

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1 MR HARKRADER Vice president of  
2 admin; vice president of expansion; and vice  
3 president of operations.  
4 BY MR HARKRADER  
5 Q And divisions one and two are overseen  
6 by the vice president of admin?  
7 A. **Correct.**  
8 Q Division six, which is --  
9 A. **Acquisition of new customers.**  
10 Q I keep wanting to say marketing.  
11 A. **We would could just say sales --**  
12 Q Okay.  
13 A. **-- new sales.**  
14 Q And that's the vice president of  
15 expansion?  
16 A. **Correct.**  
17 Q Division seven is the regulatory?  
18 A. **The regulatory. We call it the**  
19 **executive division. And then one of the**  
20 **departments is regulatory/legal.**  
21 Q And that's overseen by which vice

Page 134

1 president?  
2 A. **None. That's actually --**  
3 Q That goes straight to the chairman of  
4 the board?  
5 A. **The chairman of the board, right.**  
6 Q They are kind of off on their own,  
7 doing their own thing?  
8 A. **Yeah. They are there to primarily**  
9 **keep the rest of the company legal and in**  
10 **compliance and expanding.**  
11 Q Okay. What is division three?  
12 A. **Division three is the treasury**  
13 **division.**  
14 Q And that's payroll?  
15 A. **Payroll, income, disbursements. You**  
16 **know, supplies, keeping track of furniture,**  
17 **equipment, stuff like that, assets.**  
18 Q Division four?  
19 A. **That would be delivery division.**  
20 Q What do they deliver?  
21 A. **Anything we sell. So we break that**

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1 **down into the provisioning of the customers --**  
2 **giving them basically what they ordered, their**  
3 **long-distance service. And then they also --**  
4 **that division also is where our customer service**  
5 **is located.**  
6 Q And what vice president oversees  
7 division three, the treasury?  
8 A. **Operations -- vice president of**  
9 **operations.**  
10 Q And what about division four?  
11 A. **Vice president of operations. And**  
12 **division five.**  
13 Q And division five, okay. And what is  
14 division five?  
15 A. **Quality control.**  
16 Q That's right.  
17 A. **They would be the liaison between The**  
18 **Verification Company, for example -- division**  
19 **five would. That's also where we do some**  
20 **in-house training; that's in that division. And**  
21 **corrections, and stuff like that.**

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1 Q Is that all seven divisions?  
2 A. **Yes.**  
3 Q Are there other sub-entities?  
4 A. **Yeah, each of the divisions has three**  
5 **departments.**  
6 Q Okay.  
7 A. **There are 21 departments. And then,**  
8 **theoretically, this is designed to expand to**  
9 **whatever size. Like -- well, we can talk about a**  
10 **company that has 4,000 stores. It's designed so**  
11 **that you have seven divisions and three**  
12 **departments, and then you can go into**  
13 **sub-sections and then units. You can**  
14 **theoretically run an AT&T. Obviously, we're not**  
15 **that, but that's the theory behind it.**  
16 Q Right.  
17 A. **So we do have the different**  
18 **departments. A lot of those departments are**  
19 **mostly run by the person who is the division**  
20 **manager at this point in time.**  
21 MR HAWA There is a bulletin board

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1 that has all of this.

2 WITNESS We could send you a Polaroid  
3 or whatever, or you can look at it.

4 MR HAWA Do you actually have it in  
5 an electronic format, other than what's on that  
6 bulletin board?

7 WITNESS I have the whole thing in  
8 the computer --

9 MR HAWA Okay. Yeah, we will send  
10 you that rather than go through 21 departments.

11 MR HARKRADER Yeah, we're not going  
12 to go through all that. But I appreciate your  
13 information.

14 WITNESS Okay.

15 BY MR HARKRADER

16 Q And I would assume that each of the  
17 three groups within the division relate to  
18 whatever the division work is?

19 A. Correct. Similar to a chain of  
20 command in the military basically, if you will.

21 Q Okay. I gave you -- I think you still

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1 have in front of you the Show of Cause Order and  
2 the Letter of Inquiry.

3 A. Uh-huh.

4 Q Will you take a look at the attachment  
5 to the letter, which lists the names of the  
6 consumers allegedly slammed by Business Options.

7 A. Uh-huh.

8 Q Do any of those -- strike that.

9 Were you aware of the allegations of  
10 slamming at or near the time that they allegedly  
11 happened?

12 A. No.

13 Q Separate and apart from what you may  
14 have found out in the Show of Cause Order?

15 A. No. That's changing now. I'm going  
16 to start getting more feedback on what division  
17 seven is doing. But, no. Unfortunately, I don't  
18 get a weekly or monthly summary of who has  
19 complained in what state and what the basis of  
20 their complaint is or anything like that. So,  
21 no, I had nothing to do with any of these people

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1 until now.

2 Q Okay. So the first time you saw any  
3 of those names in the Show of Cause Order, which  
4 you told us earlier was the first time you found  
5 about these particular individuals --

6 A. Right.

7 Q -- was actually when you saw the Show  
8 of Cause Order?

9 A. Right.

10 Q What was the company's policy in 2002  
11 for disseminating the names of complainants -- of  
12 the people who claimed that Business Option had  
13 slammed them? Was there any policy?

14 A. Not that I know of. There had been an  
15 unwritten procedure where -- Bill was the guy who  
16 handled it. You know, he handled it. He had an  
17 assistant or two at all times, and that would  
18 change if people quit or whatever. But  
19 primarily, Bill kept the area organized and did  
20 the filings and handled all the cycles.

21 Q Okay. But he didn't have a monthly

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1 report, though, that he would give to you or your  
2 brother?

3 A. No. The one thing that he used to  
4 give us was like the number of pending  
5 complaints, which was a generic way of saying,  
6 "Are we creating problems in sales?"

7 Q Uh-huh.

8 A. So, you know, the goal was obviously  
9 to keep that at zero at all times, and that's  
10 where he kept it. You know, he would handle them  
11 each week. Anyway, it's a flunk. We should  
12 have, obviously, had some kind of a tracking  
13 system. I'm sure that he did; I just never knew  
14 of it.

15 Q Right. Do you know what the company's  
16 policy in 2002 was with respect to responding to  
17 any complaints that they received as opposed to  
18 reporting it? Do you understand my question?

19 A. I think so. Like what is the policy  
20 if we have a complaint?

21 Q Yeah, in 2002, what was the policy?

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1 A. Well, in corporate affairs, the policy  
2 or the procedure was, to my knowledge, to get in  
3 contact with the customer or the state or  
4 wherever the complaint is emanating from and try  
5 to handle as best as possible. If that meant --  
6 like if we had erroneously entered data-entered  
7 somebody onto our service, which that happens  
8 every now and then -- somebody may be typing in a  
9 billing telephone number, and it's ten digits,  
10 you know, they could actually hit a "2" instead  
11 of a "1." And all of a sudden, we provisioned  
12 the wrong person. Then, obviously, we would have  
13 to refund that person and whatever. Anyway, so  
14 just to handle as quickly as possible whatever  
15 the problem is.  
16 Q And that was handled in division  
17 seven?  
18 A. Yes.  
19 Q Corporate affairs?  
20 A. Yes. Customer service would handle it  
21 if the customer called us. If there wasn't

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1 really a complaint, but there was a question on  
2 their bill or something like that, then we would  
3 handle that right there in division four.  
4 Q Okay.  
5 A. But anything that was like a complaint  
6 from a state or anything like that was definitely  
7 routed right to division seven.  
8 Q Okay. I see. What is the company's  
9 procedure for handling complaints from consumers  
10 and/or states currently?  
11 A. I really don't know, other than  
12 Shannon gets it, and she gets in communication  
13 with the state and complies with whatever she  
14 needs to comply with, I guess.  
15 Q So that's something that she should  
16 know?  
17 A. Yes, she should know that.  
18 Q And complaints that you hear directly  
19 from the consumers would go to division four?  
20 A. Yeah, if they call in directly. Now,  
21 if it's a written complaint and it seems like

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1 it's a legal matter, then it will go to division  
2 seven. But if it's just one of our customers,  
3 they have our 800 number, and they will just call  
4 directly right into our customer service  
5 department.  
6 Q Is that the same policy that the  
7 company had in 2002?  
8 A. Yeah.  
9 Q We are very close to the end  
10 A. Okay.  
11 Q Earlier this morning you talked about  
12 Avatar and currently what Avatar does or one of  
13 the many things that it does. You said it  
14 receives all of the money that comes in from the  
15 various companies?  
16 A. Correct.  
17 Q And then it disburses it back out to  
18 those companies?  
19 A. Correct.  
20 Q Can you tell me how that works?  
21 A. Yes. Weekly, w-e-e-k, once a week the

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1 company will track how much income came in and  
2 then present what its plan is. Like, for  
3 example, Business Options or Buzz now -- let's  
4 say there is \$50,000 that comes in, and then they  
5 prepare a financial plan to spend that money  
6 accordingly -- payroll or vendor bills or  
7 whatever. And then that gets presented to the  
8 financial banking officer, which is in division  
9 seven. That's Kurtis who holds that position,  
10 and then he approves or disapproves it based on  
11 if he thinks it's going to help the company  
12 expand. And that's true for each of the  
13 different entities.  
14 Q Okay. How long has that policy been  
15 in place?  
16 A. All of this year. And it's actually  
17 being done day-to-day or week-to-week. And I  
18 believe most of the last year, there may have  
19 been some weeks where it was done differently.  
20 But I mean, in theory, the financial planning;  
21 whether it was weekly, bi-weekly or monthly;

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1 would go to Kurtis for final approval.  
2 Q Okay And that's done through Avatar?  
3 A. Now. Before Avatar, which was -- when  
4 did that start? This year basically. So  
5 pre-Avatar, it was kind of the same system, but  
6 it didn't go through Avatar. So the financial  
7 planning would come through -- like let's just  
8 take Buzz, for example. The financial  
9 planning -- the executive counsel, which would be  
10 myself and the vice presidents, would meet and go  
11 over the business of the week. And then I would  
12 sit down and actually prepare the financial  
13 planning for the week or the month or whatever it  
14 might have been. And then I would forward that  
15 to Kurtis for the second set of eyeballs, and he  
16 would approve or disapprove it based on what I  
17 had presented him.  
18 Q We talked yesterday with your brother  
19 about the income of Business Options and Buzz and  
20 something along the lines of Business Options  
21 doesn't have any employees, but it provides

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1 services to the customers. Is that your  
2 understanding?  
3 A. Correct.  
4 Q And income from those customers will  
5 come in -- but instead of going to Business  
6 Options, it will go to Buzz Telecom now.  
7 A. Yeah. Now it goes directly to Avatar,  
8 and then it gets funneled back to Buzz and  
9 Business Options.  
10 Q But in 2002 -- or I guess in the  
11 second half of 2002 --  
12 A. Buzz.  
13 Q -- it went to Buzz?  
14 A. Correct.  
15 Q And before Buzz came into existence in  
16 mid-2002, it went to U.S. Bell?  
17 A. Correct.  
18 Q So is Avatar now stepping into the  
19 place of Buzz, or is that kind of a third layer?  
20 A. Um --  
21 Q Let me try this. If you were to have

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1 kind of a work chart of companies, would Avatar  
2 be above Buzz?  
3 A. Yes.  
4 Q And then below Buzz would be Business  
5 Options?  
6 A. I wouldn't say below; I'd say lateral.  
7 So Buzz, in theory, has a business relationship  
8 with Business Options where it's marketing the  
9 Business Options products that it has tariffs  
10 for, and then it gets paid a percentage of the  
11 gross income for that service. Anyway, it has  
12 come to my understanding that the way we do our  
13 accounting needs to change.  
14 Q. But Buzz doesn't do anything to  
15 generate income; do they? I mean, all the income  
16 is coming from consumers who have prescribed to  
17 Business Options products?  
18 A. Correct, almost a hundred percent. As  
19 Buzz gets licensed in the various states, we did  
20 a couple of pilots so far to see if we could  
21 direct-bill customers, and we did that under the

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1 name of Buzz. And Elizabeth could probably tell  
2 you exactly, but I think it's a couple hundred  
3 customers that we direct-bill as Buzz --  
4 Q Uh-huh  
5 A. -- which is different than Business  
6 Options.  
7 Q Do you have any understanding of why  
8 the companies' structured the income that way in  
9 2002 and currently?  
10 A. Yes. It was basically so that there  
11 would be tighter control on how the monies were  
12 disbursed so that the management company could  
13 focus on expanding the operations and making sure  
14 that lower level management wasn't making bad  
15 decisions and put more control on the money  
16 basically. And that's really the basic reason.  
17 And then -- yeah.  
18 Q Okay. So do you get revenues for  
19 HBOS?  
20 A. Avatar does get revenues, yes.  
21 Q And before Avatar, the revenues would

Page 149

1 go to Buzz when it existed?

2 A. Actually, it didn't. It stayed at

3 HBOS.

4 Q Okay.

5 A. It stayed there. Same for Total

6 Bus.-247.

7 Q But currently, it goes to Avatar?

8 A. Correct.

9 Q Creative Financial Options was CFO?

10 A. Yes.

11 Q And that's one business?

12 A. Yes.

13 Q Galiant was a d/b/a for --

14 A. Galiant is the corporate name with the

15 Federal I.D. number, and then the d/b/a of

16 Galiant is -- what the heck is the name of it?

17 Total Bus.-247, TB-247.

18 Q Does Facilitel still exist?

19 A. Yes. And that's the d/b/a name for

20 HBOS.

21 Q And HBOS -- oh, you already told me

Page 150

1 that.

2 A. It's actually a great name. It means

3 easy phone in Spanish. And it had a logo -- or

4 we do now with a smiley phone, and the market

5 actually loves that name.

6 Q HBOS?

7 A. Facilitel means easy phone. It's

8 actually a really good name. It translates

9 better in Spanish is what I am trying to say --

10 Q Okay.

11 A. -- than easy phone.

12 Q Okay. Do you know a gentleman by the

13 name of Thomas Laskey?

14 A. No, I don't think so.

15 MR HARKRADER Do we have anything

16 else?

17 MR SHOOK No.

18 MR HARKRADER Well, the first thing

19 I want to tell you is thank you very much for

20 your time.

21 WITNESS You're welcome.

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1 MR HARKRADER You have helped us a

2 lot, and we appreciate it. I have no more

3 questions for you.

4 WITNESS Thanks.

5 MR HAWA We will read and sign it.

6 (Reading and signing requested. )

7 (Deposition concluded 1:00 p.m.)

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1 CERTIFICATE OF REPORTER/NOTARY PUBLIC

2 STATE OF INDIANA, to wit

3 I, DONNA J HANNAH, a Notary Public of

4 the State of Indiana, do hereby certify that the

5 within-named witness personally appeared before

6 me at the time and place herein set out, and

7 after having been duly sworn by me, according to

8 law, was examined by counsel

9 I further certify that the examination

10 was recorded stenographically by me and this

11 transcript is a true record of the proceedings

12 I further certify that I am not of

13 counsel to any of the parties, nor in any way

14 interested in the outcome of this action

15 As witness my hand and notarial seal

16 this 25th day of July, 2003

17

18 -----

19 Donna J Hannah  
Notary Public

20 My Commission Expires 05-26-08

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